

App. Serial No.: 09/769,992
Title: Double Shell Dispenser
Atty. Dkt.: CG-855

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a cap body threadably attached to said container finish, said cap body having a top wall with an opening therein, said top wall including an inner wall and an outer wall depending therefrom, said outer wall and said inner wall being concentrically aligned, said inner wall having at least one drop lug projecting from a terminating edge thereof,

said outer wall including at least one child-resistant lock formed therefrom, said container finish including at least one child-resistant stop formed thereon.

✓ Please cancel claim 3 and 4.

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Claim 5.(Once Amended) The dispenser closure of claim 1, said child-resistant stop being integrally formed with said lug stop.

REMARKS

Reconsideration of the above referenced application is hereby requested. Claims 1, 2, 5-20 remain in the pending application.

DRAWINGS

The Examiner has objected to the drawings as failing to comply with 37 CFR § 1.84. Applicant's Attorney has provided a new set of drawings for Figure 3 and Figure 4 which renumber the child-resistant lock 63 to 63a. New formal drawings will be

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submitted upon issuance of a notice of allowance. Applicant's Attorney therefore respectfully request that the objection to the drawings be removed.

SPECIFICATION

The Examiner has objected to the specification because of various informalities. Applicant's Attorney has included an amendments to the specification to correct the miss-numbered reference numerals set forth therein. Applicant's Attorney therefore respectfully request the Examiner remove said objection.

35 USC§103(a) REJECTIONS

The Examiner has rejected previously pending claims 1, 2 and 9 under 35 USC§103(a) as being unpatentable over Porter (US Patent No. 3,175,741) in view of Schreiber (US Patent No. 4,867,354), and further rejected claims 3, 4 and 7 over Porter in view of Schreiber and further in view of Robinson (US Patent No. 5, 915,576). Applicant's Attorney respectfully traverses the Examiner under these grounds of rejection.

The Examiner's rejection of claims 1, 2 and 9 are considered moot in light of the amendment to claim 1 set forth herein which modifies the claim to incorporate additional structure. As currently amended, claim 1 sets forth a dispenser closure which is combined with a container finish, the container finish having a thread, lug stop and child-resistant stop formed thereon. The claim further sets forth a cap which is threadably attached to the neck finish and which has an outer and inner wall depending from a top wall which are concentrically aligned, the inner wall having a drop lug projecting

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downward from a terminating edge and the outer wall having a child-resistant lock formed thereon. Both the child-resistant lock and child-resistant stop as well as the drop lug and lug stop engage to allow for opening of the dispensing closure while combining both a child-resistant feature requiring inward pressure for deforming of the outer shell with a anti-removal feature thereby preventing removal of the closure from the finish. Such a dispensing closure and container finish combination is desirable in circumstances where the container has material therein which would necessarily require child-proofing such as cleaning supplies and the like. Such a container finish and dispenser closure combination therefore provides significant functional advantages over the cited prior art relied upon in the above mentioned rejections.

In rejection of claims 3, 4 and 7 under 35 USC§103(a), the Examiner has relied upon the combination of the teachings within the Porter reference (US Patent No. 3,175,741), the Schreiber reference (US Patent No. 4,867,354) and further in view of the Robinson reference (US Patent No. 5,915,576). The Examiner has indicated that the Porter finish and dispensing closure may be readily combinable with the lug stop and finish lug disclosed within the Schreiber reference and further in combination with the two child-resistant locks and stops set forth within the Robinson reference. Applicant's Attorney however respectfully indicates that the structural components which the Examiner has referred to may not be readily combined with the teachings set forth in the cited references. Particularly, as seen in the Porter reference, Porter requires that an in-depth channel 19 be formed in the neck of the finish which would receive a third inner wall of the closure. As can be seen in the Porter reference, there is no structure for placement of a child-resistant lock formed on the outer wall of the dispensing closure. As

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seen in Figure 2 and 3 as well as the top view of Figure 4, the Porter dispensing closure is designed specifically for opening by simple rotation of the over cap in a counterclockwise direction (See Column 3, lines 6-9). It is further readily ascertainable from Figure 4 that the concentric rings provided for within the Porter reference are so tightly formed so as to prevent deformation of the outer shell or inclusion of any child-resistant locks and stops therebetween. This is particularly the case since the neck finish clearly disclosed within the Porter reference and as seen in Figure 2 is upwardly angled with a mating beveled finish on the lower edge of the outer shell of the dispensing closure. Such construction does not readily allow for construction of child-resistant features due to the angled mating surfaces between the two structures. Such an inappropriate structure set forth within the Porter reference for support of a child-resistant feature is not aided by the teachings of either the Robinson or Schreiber references in that their structures are seen as utilizing simple child-resistant lug and stops.

The combination is particularly inappropriate with respect for the Robinson reference wherein Robinson specifically teaches stiffening webs or ribs which extend radially between the closure walls so as to prevent flexure of the walls (See Column 6, lines 59-65 and further see Column 8, line 39-43). The closure set forth in the Robinson reference specifically attempts to localize the deformation zone of the closure. The Examiner has indicated that it would have been obvious to one of ordinary skill in the art to modify the combination of Porter's and Schreiber's invention with two child-resistant locks and two child-resistant stops as taught by Robinson in order to make the cap body child-resistant. However, as indicated above, the structure set forth within Porter would therefore necessarily require significant alternation which would change the underlying

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operation of the dispensing closure and neck set forth therein. The Porter reference lacks any suggestion of utilizing a child-resistant feature whatsoever and is designed such that integration of child-resistant locks and stops is not operationally feasible.

Additionally, as set forth in the Robinson reference, the closure is described and taught as having stiffening web ribs which are integrally molded into the closure which necessarily imparts a resiliency therebetween. Further, the Schreiber reference does not utilize a double-shelled closure as is claimed and necessarily requires a bore extending into the interior of the neck to allow for proper operation while also incorporating threads on the outer side wall. Such operation additionally prevents utilization of an adequate child-resistant feature as deformation of the outer wall of the closure necessarily requires deformation of the threads thereby removing thread contact and reducing sealing properties. Thus, the suggested combination of references offered by the Examiner materially changes the operational parameters of the relied upon structure. Such proposed modification in combination of the prior art is insufficient to render the claims obvious (See MPEP § 2143.02 "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the reference are not sufficient to render the claims *prima facie* obvious.")

Applicant's Attorney feels that currently pending Claim 1, as modified, incorporates structure which is not taught nor suggested by combination of the references relied upon by the Examiner and found in the prior art. There is no teaching within the prior art to provide a dispensing closure as presently claimed having the structural definitions as presently claimed and set forth above. All of the references relied upon by the Examiner fail to teach the combined structure and may not be modifiable to perform

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the intended purpose set forth within the relied upon prior art. It is additionally to be noted that none of the references relied upon by the Examiner suggest the desirability of the combination set forth in the presently pending claims and indeed do not support such a combination in that they are directed to a singular functionality (and necessarily structure) of having either a stop mechanism or a child-resistant feature. Integration of both structures in a single neck finish and dispensing closure combination is not even remotely suggested by any of the prior art references and none of the references intimate either directly or indirectly the suggested combination. As the Examiner is aware, there must be some suggestion or motivation in the references to be modified in order for there to be a proper obviousness rejection. Applicant's Attorney feels that the references fail to so suggest the modification relied upon by the Examiner and in fact are not so modifiable as the modifications inherently change the structural characteristics of the closure and container combinations taught within the references. Applicant's Attorney therefore respectfully requests the Examiner remove said rejection.

The Examiner has further rejected Claims 6, 10-12 under the same references noted above. Applicant's Attorney notes that these claims depend upon Claim 1 which has been modified as indicated above. Claim 1 is felt to be allowable over the relied upon art and as such, the depending claims noted herein are felt to be allowable. Applicant's Attorney therefore respectfully requests the Examiner remove said rejections.

ALLOWABLE SUBJECT MATTER

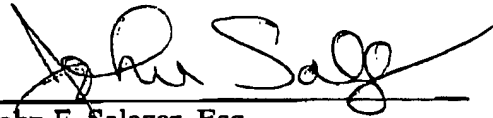
Applicant's Attorney appreciates the Examiner's indication of allowable subject matter in Claims 5, 8 and 13 as well as the indication of allowance for Claims 14-20.

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Applicant's Attorney notes that Claims 5 and 8 depend from newly amended Claim 1 and feels that the claims are still allowable in present form. If the Examiner feels that there are additional issues remaining regarding these claims, Applicant's Attorney would appreciate a call to discuss such issues in order to properly place these claims as well as all of the pending claims, in proper form for allowance.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES

Page 6, line 13, in the specification, replace the paragraph with the following paragraph:

As shown in Figures 3 and 4, outer wall 60 may include at least one child-resistant lock 63 formed thereon. In a preferred embodiment, as shown in Figures 3 and 5, cap body 50 includes two child-resistant locks 61 and 63a diametrically aligned along the outer wall 60. Cap body 50 also includes a top wall 58 from which both inner wall 70 and outer wall 60 depend. Top wall 58 includes an opening 62 disposed therein. A spout portion 66 projects from top wall 58 and is concentrically aligned with opening 62. Indeed, inner wall 70 and outer wall 60 are also concentrically aligned with opening 62. In one embodiment, as shown in Figures 3 and 4, cap body 50 includes a skirt 64 depending from top wall 58 flush with opening 62. Skirt 64 is provided within the cap body so as to operably engage an annular wall 22 of fitment 20, as shown in Figure 4. In one embodiment, skirt 64 includes a skirt sealing bead 65 which engages annular wall 22. By this engagement, the contents of the container (not shown), to which the closure 10 is attached, are prevented from contacting inner wall 70.

Page 7, line 5, in the specification, replace the paragraph with the following paragraph:

As shown in Figure 4, the cap body 50 and the fitment 20 cooperate to provide a double sealing mechanism, which includes the top wall sealing bead 51, flange 23, annular wall 22 and skirt sealing bead 65. A first seal is provided by the engagement of skirt sealing bead [29] 65 contacting annular wall 22, as shown in Figure 4. Skirt sealing bead [29] 65 is disposed so as to sealably engage annular wall 22 throughout the range of

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axial rotation through which the cap body 50 may rotate. The first seal formed by skirt sealing bead [29] 65 and annular wall 22 prevents the contents of the container (not shown) from leaking past skirt 64. A second seal is formed by the engagement of top wall sealing bead 51 and flange 23, as shown in Figure 4. This second seal is formed only when the cap body 50 is in a generally closed position, since top wall 58 must be adjacent to flange 23 in order for top wall sealing bead 51 to engage flange 23. The second seal provides leakage protection that is in addition to the protection offered by the first seal, which is maintained throughout all the various orientations of the closure 10. In addition to the sealing mechanism provided by the cooperation of cap body 50 and fitment 20, a third seal is provided by the cooperation between fitment 20 and container finish 80. More particularly, when fitment 20 is disposed in the opening 84 of the container finish 80, fitment sealing bead 29 engages the upper surface 88 of neck portion 82, thereby forming the third seal. This third seal prevents the contents of the container (not shown) from leaking through opening 84 and past fitment 20.

Page 8, line 3, in the specification, replace the paragraph with the following paragraph:

As shown in Figures 2 and 4, outer wall 60 may include a thumb pad 68 disposed on an outer surface thereof. In a preferred embodiment, outer wall 60 is formed of an appropriate polymeric material and thickness as to make it deformable. A cap body 50 including a deformable outer wall 60 may include two thumb pads 68 diametrically aligned thereon. Outer wall 60 may be deformable by the application of pressure by the user to the points on the outer wall 60 where the thumb pads 68 are disposed so as to cause outer wall 60 to deform inwardly at those points, while also deforming outwardly

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at points approximately 90° away from those points. In such a preferred embodiment, child-resistant locks 61 and 63a are disposed approximately 90° away from thumb pads 68 along outer wall 60, so that, when outer wall 60 is deformed as described above, child-resistant locks 61 and 63a are moved away from child-resistant stops 81 and 83, shown in Figures 9-12, disposed on container finish 80, and prevent counterclockwise rotation and subsequent removal of the closure 10.

Page 9, line 5, in the specification, replace the paragraph with the following paragraph:

Container finish 80 also may include at least one child-resistant stop 81 and/or 83. In one embodiment, container finish 80 includes two child-resistant stops 81 and 83 diametrically aligned around the neck portion 82 and integrally formed with lug stops 90 and 92, as shown in Figures 9 and 10. However, the closure 10 of the present invention also encompasses child-resistant stops that are not aligned nor integrally formed with lug stops 90 and 92. Child-resistant stops 81 and 83 cooperate with child-resistant locks 61 and 63a so as to limit the user's ability to open the closure 10, as discussed herein below. Child-resistant stops 81 and 83 differ from lug stops 90 and 92 in their size and positioning. More particularly, child-resistant stops 81 and 83 are smaller than lug stops 90 and 92 and are positioned radially beyond lug stops 90 and 92. The size and positioning of child-resistant stops 81 and 83 facilitate the proper opening of the closure 10 and allow for the lug stops 90 and 92 to engage drop lugs 54 and 56 even when outer wall 60 is being deformed so as to avoid the engagement of child-resistant stops 81 and 83 by child-resistant locks 61 and 63a. As shown in Figure 11, each of the lug stops 90 and 92 and child-resistant stops 81 and 83 may include a generally flat side and a

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generally rounded side. More particularly, each of lug stops 90 and 92 may include a flat side or stop surface 93, as well as a rounded side or cam surface 95. Likewise, each of the child-resistant stops 81 and 83 may also include a flat or stop surface 97, as well as a rounded or cam surface 99. The stop surfaces 93 of lug stops 90 may engage drop lugs 56 and 54 so as to stop the axial rotation of cap body 50 about neck portion 82. However, when cam surfaces 95 of lug stops 90 and 92 engage drop lugs 56 and 54, the rounded surfaces of cam surfaces 95 allow the drop lugs 54 and 56 to slide over lug stops 90 and 92, so as to allow for the initial attachment of cap body 50 to container finish 80. Likewise, the stop surfaces 97 of child-resistant stops 81 and 83 engage child-resistant locks 61 and 63a on outer wall 60 of cap body 50, so as to prevent opening of the closure 10. Whereas, the cam surfaces 99 of child-resistant stops 81 and 83, when engaged, allow for the child-resistant locks 61 and 63a to slide over the child-resistant stops 81 and 83.

Page 10, line 9, in the specification, replace the paragraph with the following paragraph:

As shown in Figure 5, drop lugs 54 and 56 are disposed approximately 90° away from each of child-resistant locks 61 and 63a, so that cap body 50 may be threadably rotated only approximately 90° about the container finish 80 before either a drop lug or a child-resistant lock engages a lug stop or a child-resistant stop. In this manner, the range of rotation of the cap body 50 about the container finish 50 is limited to approximately 90°. However, the present invention may include lugs, locks, and stops that are aligned differently so as to provide a varied range of rotation.

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Page 11, line 6, in the specification, replace the paragraph with the following

paragraph:

In use, the closure 10 provides for the dispensing of the contents of a container (not shown). When closure 10 is assembled, fitment 20 is disposed over the opening 84 in the neck portion 82 of container finish 80. Cap body 50 is positioned over fitment 20 so that post 24 extends through spout portion 66 and seal 65 engages a surface of annular wall 22 of fitment 20. Cap body 50 is threadably attached to container finish 80 by the cooperation of at least one thread 72, on the inner surface 71 of inner wall 70, with at least one thread 86 on neck portion 82. Each of the drop lugs 54 and 56 and the child-resistant locks 61 and 63_a are disposed between lug stops 90 and 92 and child-resistant stops 81 and 83. In the closed position, cap body 50 is threaded axially down over neck portion 82, such that post 24 of fitment 20 extends upward through each of opening 62, spout portion 66 and opening 63, thereby sealing opening 63 and the closure 10. When closure 10 is opened, the user applies inward pressure to the outer wall 60 at the thumb pads 68, thereby deforming the outer wall 60. The child-resistant locks 61 and 63_a are disposed on the portions of the outer wall that deflect outward, when pressure is applied by the user. While this pressure is being applied, the user may then axially rotate the cap body 50, so that the cap body 50 moves upward from neck portion 82 and fitment 20. As the cap body 50 rotates axially, child-resistant locks 61 and 63_a rotate past child-resistant stops 81 and 83 without engaging them, since the outer wall 60 is deformed outwardly at those points where the child-resistant locks are located. If the outer wall 60 was not deformed as the axial rotation was occurring, then child-resistant locks 61 and 63_a would engage child-resistant stops 81 and 83, thereby preventing the opening of the closure 10.

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Nevertheless, as the child-resistant locks 61 and 63a on the deformed cap body 50 move past the child-resistant stops 81 and 83, the cap body 50 continues to rotate axially until one or both drop plugs 54 and 56 engage one or both stops 90 and 92. Once drop lugs 54 and 56 engage stops 90 and 92, further axial rotation of cap body 50 is prevented. At the point of engagement of drop lugs 54 and 56 with stops 90 and 92, closure 10 is open, but cap body 50 is still attached to container finish 80. In this manner, the dispenser closure 10 may dispense the contents of a container to which the closure 10 is attached without removing the cap body 50 from the container finish 80.

IN THE CLAIMS

Claim 1.(Once Amended) A dispenser closure comprising:

a container finish having at least one thread and at least one lug stop formed thereon; and,

a cap body threadably attached to said container finish, said cap body having a top wall with an opening therein, said top wall including an inner wall and an outer wall depending therefrom, said outer wall and said inner wall being concentrically aligned, said inner wall having at least one drop lug projecting from a terminating edge thereof,

said outer wall including at least one child-resistant lock formed therefrom, said container finish including at least one child-resistant stop formed thereon.

Claim 5.(Once Amended) The dispenser closure of claim [4] 1, said child-resistant stop being integrally formed with said lug stop.